

REPUBLIC OF KENYA

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Senator Andrew Okiya Omtatah Okiiti, MP Busia County

REF: SEN/BSA/SPORTS/1

16th October, 2023

MR. SAVIOUR PANYAKO
CHIEF OFFICER
DEPARTMENT OF YOUTH, SPORTS, CULTURE, GENDER & CREATIVE ARTS
P. O. BOX PRIVATE BAG – 50400
BUSIA.

Dear Sir,

REF: **OBJECTION TO THE PROPOSED RELOCATION OF BUSIA COUNTY
STADIUM TO BUSIA AGRICULTURAL TRAINING CENTRE (ATC) GROUNDS**

Members of the public have drawn my attention to a letter, RE: CG/BSA/ADM/VOL.3/121, dated 11th October, 2023, which is doing the rounds on social media.

The letter (attached hereto for your ease of reference), which I have since confirmed is genuine and was written by you, and also addressed to my office, among others, is referenced: *“invitation for Public Participation – Proposed Relocation of Busia County Stadium to ATC Grounds”*.

First and foremost, I fault you for not giving public participation, which is a requirement under the Constitution of Kenya, 2010, the serious attention it deserves. The courts have decreed many times that *“public participation ought to be real and not illusory and ought not to be treated as a mere formality for the purpose of fulfilment of the constitutional dictates... the spirit of public participation is attained both quantitatively and qualitatively”*.

Public participation is a constitutional imperative, which should play a central role in legislative, policy and executive functions of the County Government of Busia. It should be a means of informing stakeholders and the public of what is intended and it

¹ Robert Gakuru & Others v Governor of Kiambu County & 3 Others [214] eKLR.

should afford them an opportunity to express, and have their views taken into account.

In the instant matter, your office has a duty to facilitate meaningful engagement with the public in accordance with the very weighty proposal at hand. It should include access to and dissemination of relevant information, providing a reasonable opportunity to the public and all interested parties to know about the proposal so that they can sufficiently ventilate the same even if no guarantee is given that each individual's views will be taken.

I am, therefore, particularly aggrieved by the following:

- (i) This invitation is not to the general public but to the select few stakeholders addressed in your letter;
- (ii) The letter targeting institutions has very limited reach and cannot substitute for formal advertisements placed in the print media, TV, and radio;
- (iii) With the public meeting scheduled for tomorrow, 17th October, 2023, those invited, especially my office, have not been given ample notice to prepare for it.
- (iv) It is also not possible for my office to fully engage with the proposal because the letter is not accompanied by any studies showing the viability of the proposal, which made the County Executive to endorse it.
- (v) The 8.00am to noon period allocated for the public participation forum is not adequate for stakeholders and the general public to engage effectively on such an important issue; and,
- (vi) There is no provision for submitting written memoranda, especially by those who cannot make it to the venue.

Secondly, in principle and notwithstanding the above, I totally object to the proposed relocation of Busia County Stadium to the ATC, on the following grounds:

- (i) The 95-acre ATC land was reserved for a public purpose that is still valid today, including establishing a university of agriculture or other institution centred on excellence in agriculture, which can become a major driver for the economy of Busia Town and the County, like university cities in the USA;
- (ii) To the best of my knowledge, the County Executive has not carried out any feasibility studies showing the viability of locating the proposed "20,000-seater capacity stadium" on the proposed site, as opposed to available alternative sites.

- (iii) There is no basis for making a choice between the stadium and the ATC in the absence of tangible studies;
- (iv) Given the budget constraints, which the Busia County Executive and the country at large, have currently, there is no money running into billions of shillings for the design and construction of such an ambitious stadium.
- (v) Such a major restructuring of the town cannot be undertaken without a comprehensive professionally done spatial plan for Busia Town, which is approved by the County Assembly, with effective public participation; and,
- (vi) The apparent obsession of the current county administration with ill-conceived or out rightly sham projects that are used to exhaust county budgets for the benefit of a few well-connected contractors and powerful individuals in and out of the County Government, as opposed to addressing the priority livelihood needs of the people of Busia, is unacceptable.

Thirdly, the sum of Kshs. 80 million allocated to the project in the current County Budget, plus the Kshs. 100 million that was allocated for its renovations in the 2022/2023 First Supplementary Budget is totally inadequate for such a mega project. It might not even be enough to do the architectural and engineering designs for the said ultra-modern stadium, if, indeed, the County Executive really intends to build one.

It is also intriguing to note that the amount captured in the current (2023/2027) County Integrated Development Plan (CIDP) for the Stadium construction is Kshs. 600 million only. The Financial Year 2023/2024 Annual Development Plan (ADP) has Kshs. 100 million allocated for the stadium works plus Kshs. 200 million earmarked in the 2024/25 ADP. These are glaring indicators of a white elephant project in the making that will undoubtedly misuse public funds to benefit a few contractors and their godfathers.

An equally ill-conceived and unviable project, for example, is the Mombasa Sports Complex (also referred to as the Modern Mombasa Stadium), a white elephant, whose construction has stalled almost 10 years now, with more than Kshs 500 million having been sunk into it. Mombasa County now claims it needs a further Kshs 1.5 billion to complete the project, and yet it does not have the money.

It is also intriguing that, vide a letter that is yet to be acknowledge/responded by the County, REF: SEN/BSA/FP//2023/009, dated 31st August, 2023, which my office addressed to the CECM Finance and Planning, we raised concerns and requested tender and contract documents about some ongoing projects, including renovations to the same Busia County Stadium, whose procurement was not above board.

Hence, it comes as a big surprise to me that the same stadium that a contractor was secretly retained to renovate at tens of millions of shillings is now earmarked for relocation. This is unacceptable.

Fourthly, upon reading your letter, I reached out to the Board of Management of the ATC, and I was shocked to learn that they are in the dark about the proposed relocation of the stadium to their land.

It is unacceptable that the Board has never been consulted on the proposal yet it, and not the Governor, is the custodian of the ATC's assets. Under the law, absolutely nothing can be done, including land use, without the involvement and approval of the Board.

Fifthly, in future, to avoid contemptuously ambushing me on social media and in compliance with the constitutional requirement for good governance, I request that letters addressed to my office, or directly to me, should be hand-delivered to my office at Amber Court, Korinda (Opposite Trailer Inn) on the Busia-Kisumu Highway. It is unacceptable, that as I write this letter, after the close of business today (16th October, 2023), a copy of your invitation letter has not been delivered to my office.

Finally, I am totally opposed to your proposed relocation of Busia County Stadium to ATC grounds, and I hope and pray that the views I have given above will find favour with your esteemed office.

Thank you.

Yours faithfully,



Andrew Okiya Omtatah Okoiti

CC:

1. H. E. Dr. Paul Nyongesa Otuoma
Governor, Busia County.
2. Hon. Eng. Fred Wafula Odilo
Speaker, Busia County Assembly.
3. All Members of Busia County Assembly.
4. Social media (where the invitation was circulated).



COUNTY GOVERNMENT OF BUSIA
DEPARTMENT OF YOUTHS, SPORTS, GENDER AND CREATIVE ARTS
P.O. BOX PRIVATE BAG – 50400
BUSIA, KENYA



11TH OCTOBER, 2023

RE: CG/BSA/ADM/VOL.3/121

TO:

ALL Federations -Busia branch
Youth Council Representative
APDK - Busia
Sub - County Admin - Matayos
Ward Admin - Burumba
MCA - Burumba Ward
MCA - Mayenje Ward
Civil Society Organizations
Women Representative Office
Senator's Office

**RE: INVITATION FOR PUBLIC PARTICIPATION - PROPOSED RELOCATION OF
BUSIA COUNTY STADIUM TO ATC GROUNDS**

The above subject matter refers.

I am writing to inform you about an important development concerning our community's sports infrastructure. As you may be aware, the current location of our stadium is bound to change.

This is because the current site is small and doesn't provide room for expansion and the County Government of Busia through the Department of Youth, Sports, Culture, Gender and Creative Arts is Planning to construct a 20,000-seater capacity stadium.

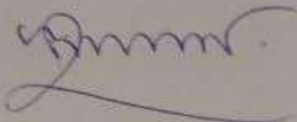
We believe that the Agricultural Training Centre (ATC) presents an excellent place for this relocation. The ATC offers a serene setting, making it an ideal location for our stadium. To make a well-informed decision that represents the interests and opinions of our community, we value your input and invite you to participate in the public consultation process.

We have scheduled a public meeting on 17th October 2023 at ATC Grounds from 8.00am to Noon. During this meeting, we will discuss the proposed relocation in detail, addressing concerns, and

answering any questions you might have. Your opinions and suggestions are invaluable to us, and we encourage you to share your thoughts on this significant matter.

Your active participation is crucial in shaping the future of our community's sports infrastructure. Together, we can create a safer and more enjoyable environment for sports enthusiasts of all ages. Thank you in advance for your cooperation, and we look forward to hearing your valuable insights on this matter.

Sincerely,



SAVIOUR PANYAKO

CHIEF OFFICER – YOUTH, SPORTS, CULTURE, GENDER AND CREATIVE ARTS

CC:

- GOVERNOR BUSIA COUNTY
- BUSIA COUNTY ASSEMBLY
- CECM – FINANCE